

**BellSouth Telecommunications, Inc.**  
333 Commerce Street  
Suite 2101  
Nashville, TN 37201-3300

guy.hicks@bellsouth.com

REC'D TN  
REGULATORY AUTH.

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July 27, 2000  
OFFICE OF THE  
EXECUTIVE SECRETARY

**Guy M. Hicks**  
General Counsel

615 214-6301  
Fax 615 214-7406

VIA HAND DELIVERY

David Waddell, Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37238

Re: *Petition for Arbitration of the Interconnection Agreement between BellSouth Telecommunications, Inc. and Time Warner Telecom of the Mid-South, L.P. Pursuant to Section 252(b) of the Telecommunications Act of 1996*  
Docket No. 99-00797

Re: *Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. pursuant to the Telecommunications Act of 1996*  
Docket No. 99-00430

Re: *Petition of NEXTLINK TENNESSEE LLC for Arbitration of Interconnection with BellSouth Telecommunications, Inc.*  
Docket No. 98-00123

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of the Supplemental Reply Memorandum in Support of BellSouth Telecommunications, Inc.'s Motion for Clarification. Copies of the enclosed are being provided to counsel of record for all parties.

Very truly yours,

Guy M. Hicks

GMH:ch  
Enclosure

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
Nashville, Tennessee**

REC'D TN  
REGULATORY AUTH.

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***In Re: Petition for Arbitration of the Interconnection Agreement between BellSouth Telecommunications, Inc. and Time Warner Telecom. of the Mid-South, L.P. Pursuant to Section 252(b) of the Telecommunications Act of 1996***

OFFICE OF THE  
EXECUTIVE SECRETARY

***Docket No. 99-00797***

***Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. pursuant to the Telecommunications Act of 1996***

***Docket No. 99-00430***

***Petition of NEXTLINK TENNESSEE LLC for Arbitration of Interconnection with BellSouth Telecommunications, Inc.***

***Docket No. 98-00123***

**SUPPLEMENTAL REPLY MEMORANDUM IN SUPPORT OF  
BELLSOUTH TELECOMMUNICATIONS, INC.'S  
MOTION FOR CLARIFICATION**

**I. INTRODUCTION**

While reluctant to appear as if it must have the "last word," BellSouth Telecommunications, Inc. ("BellSouth") feels compelled to respond to the filing of ITC^DeltaCom Communications, Inc. ("DeltaCom") in response to BellSouth's Reply Memorandum in Support of its Motion for Clarification. BellSouth's response is necessary in order to set the record straight and to ensure that the Tennessee Regulatory Authority has all of the relevant facts in rendering its decision on BellSouth's motion.

## **II. DISCUSSION**

### **A. DeltaCom Is "Affiliated" With One Of The Largest Internet Service Providers In The United States, Notwithstanding DeltaCom's Claims To The Contrary.**

DeltaCom takes issue with BellSouth's claim that DeltaCom is affiliated with MindSpring, which has since merged with EarthLink to form the second largest Internet Service Provider ("ISP") in the United States. DeltaCom Response at 2. While BellSouth does not profess to be an expert on the corporate structure of DeltaCom, there can be no question that DeltaCom and MindSpring are affiliates.

Indeed, the Authority need look no farther than the most recent Form 10-K of ITC^DeltaCom, Inc., which was filed with the Securities and Exchange Commission for the fiscal year ended December 31, 1999. In that document, which presumably is accurate, ITC^DeltaCom, Inc. expressly identifies MindSpring as one of its "affiliates." Form 10-K of ITC^DeltaCom, Inc. at F-23 (copy of which can be obtained at <http://www.sec.gov/Archives/edgar/data/1041954/0000928385-00-001029.txt>). According to the Form 10-K, DeltaCom "also acts as an agent for ... MindSpring in contracting with major interexchange carriers to provide origination and termination services." *Id.* In light of such public acknowledgements, DeltaCom's claim that "ITC^DeltaCom is not an affiliate of ... MindSpring [or] EarthLink" cannot be reconciled with the truth.<sup>1</sup>

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<sup>1</sup> DeltaCom insists that BellSouth "has known that ITC^DeltaCom is not affiliated with any ISP at least since April 25, 2000" by virtue of DeltaCom's discovery responses in a proceeding in South Carolina. In light of the statements in ITC^DeltaCom's Form 10 K, it is clear those discovery responses were false.

While BellSouth does not dispute that “intercarrier compensation is designed to compensate companies for carriage of each other’s traffic,” DeltaCom Response at 3, reciprocal compensation was never intended as a “get rich” scheme for lining the pockets of DeltaCom’s shareholders. Absent a true-up, that is precisely what will happen if reciprocal compensation is paid for traffic to ISPs served by DeltaCom, particularly when that ISP happens to be an affiliate of DeltaCom.<sup>2</sup>

***B. The Georgia Public Service Commission Has Ordered A “True-Up,” Although Not For DeltaCom***

As correctly noted by DeltaCom, at the time BellSouth filed its reply memorandum, the Georgia Public Service Commission had not yet entered its order resolving the arbitration in that State. However, the Commissioners had voted that BellSouth pay reciprocal compensation for ISP traffic “[c]onsistent with the previous decisions of the Commission ....” In those previous decisions – in particular the arbitration between ICG and BellSouth – the Georgia Commission had ordered a true-up, and BellSouth reasonably expected that the Georgia Commission would do likewise for DeltaCom.

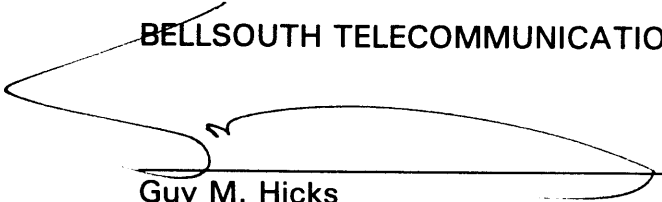
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<sup>2</sup> While attempting to create the impression that there is simply no relationship between DeltaCom and MindSpring (now EarthLink), DeltaCom has neglected to mention that the Chairman of ITC^DeltaCom – Campbell B. Lanier – is also the chairman of ITC Holding Company, which, according to its website, currently has a 17% interest in MindSpring. Mr. Lanier also is the Board of Directors of ITC^DeltaCom, ITC Holding Company, as well as MindSpring. DeltaCom’s attempt to downplay these relationships is nothing more than corporate hair-splitting.

However, in its written order entered on July 5, 2000, the Georgia Commission made no mention of a true-up. See Order, *In re: Petition for Arbitration of ITC^DeltaCom Communications, Inc. with BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996*, at 7 (Ga. Public Service Comm'n July 5, 2000). BellSouth has filed a motion for reconsideration on this issue in light of the Georgia Commission's decision to order a true-up in the ICG arbitration. Although BellSouth's motion is currently pending, the Georgia Commission has not yet ordered a true-up for DeltaCom, and BellSouth wanted to set the record straight on this point.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.



Guy M. Hicks  
Patrick W. Turner  
333 Commerce Street, Suite 2101  
Nashville, Tennessee 37201-3300  
(615) 214-6301

R. Douglas Lackey  
Bennett L. Ross  
675 W. Peachtree Street, Suite 4300  
Atlanta, Georgia 30375

222176

### CERTIFICATE OF SERVICE

I hereby certify that on July 27, 2000, a copy of the foregoing document was served on the parties of record, via the method indicated:

- ☐ Hand
- ☒ Mail
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Charles B. Welch, Esquire  
Farris, Mathews, et al.  
205 Capitol Blvd, #303  
Nashville, TN 37219

- ☐ Hand
- ☒ Mail
- ☐ Facsimile
- ☐ Overnight

H. LaDon Baltimore, Esquire  
Farrar & Bates  
211 Seventh Ave. N, # 320  
Nashville, TN 37219-1823

- ☐ Hand
- ☒ Mail
- ☐ Facsimile
- ☐ Overnight

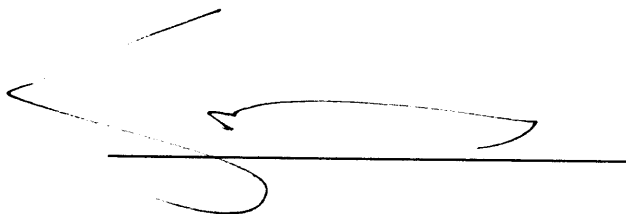
Nanette S. Edwards, Esquire  
ITC^DeltaCom  
4092 South Memorial Parkway  
Huntsville, AL 35802

- ☐ Hand
- ☒ Mail
- ☐ Facsimile
- ☐ Overnight

Dana Shaffer, Esquire  
NEXTLINK  
105 Malloy Street, #300  
Nashville, TN 37201

- ☐ Hand
- ☒ Mail
- ☐ Facsimile
- ☐ Overnight

Daniel Wagoner, Esquire  
Davis, Wright & Tremaine  
1501 Fourth Ave, #2600  
Seattle, WA 98101

A handwritten signature in black ink, consisting of a stylized, cursive script that begins with a large, sweeping 'S' or 'D' shape, followed by several loops and a final horizontal stroke.